

CITY OF PLEASANT HILL

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ENVIRONMENTAL REVIEW PROCEDURES

Resolution No. 52-91

1.0 Purpose and Objective.

It is the purpose of these procedures to clearly articulate the policy of the City of Pleasant Hill for the local implementation of the California Environmental Quality Act (CEQA). These procedures shall be subordinate to and shall be used in conjunction with the "State Guidelines," as amended from time to time and which are incorporated herein by reference as if set forth in full. These procedures are applicable to any public or private project subject to a permit or approval from the City of Pleasant Hill.

2.0 Definitions.

- 2.1 General. The following definitions as set forth in Title 14, Article 4 (beginning with Section 15350) of the California Administrative Code, (hereinafter cited as "State Guidelines") are hereby adopted and incorporated by reference as though set forth in full.
- 2.2 Categorical Exemption. Categorical Exemption means an exemption from CEQA for a class of activities defined in the State Guidelines, Article 19.
- 2.3 City. The term city shall refer to the City of Pleasant Hill.
- 2.4 Decision-making body. The term decision-making body means the zoning administrator, planning commission, city council or redevelopment agency authorized to approve the project at issue.
- 2.5 Director. The term director shall refer to the Director of Community Development of the City of Pleasant Hill, or designated representative.
- 2.6 Environmental Documents. Environmental documents means Initial Studies, Negative Declarations, draft and final Environmental Impact Reports, documents prepared as substitutes for Environmental Impact Reports and Negative Declarations under a program certified pursuant to Public resources Code Section 21080.5, and documents prepared under National

Environmental Policy Act (NEPA) and used by a state or local agency in the place of an initial study, negative declaration, or an EIR.

- 2.7 Environmental Impact Report. Environmental Impact Report (EIR) means a detailed statement prepared under CEQA describing and analyzing the significant environmental effects of a project and discussing ways to mitigate or avoid the effects.
- 2.8 Initial Study. Initial Study means a preliminary analysis prepared by the Lead Agency to determine whether a Negative Declaration or EIR must be prepared and to identify the significant environmental effects to be analyzed in an EIR.
- 2.9 Lead Agency. Lead Agency means the public agency which has the principal responsibility for carrying out or approving a project.
- 2.10 Ministerial. Ministerial describes a governmental decision involving little or no personal judgement by the public official as to the wisdom or manner of carrying out the activity. The public official merely implements legal requirements rather than using special discretion or judgment in reaching a decision.
- 2.11 Project. Project means a planned undertaking which requires the exercise of judgement or deliberation when the city decides to approve or disapprove the activity, as distinguished from situations where the city merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.
- 2.12 Responsible Agency. Responsible Agency means a public agency which proposes to carry out or approve a project for which a Lead Agency is preparing or has prepared a Negative Declaration or EIR. Responsible Agency includes all local, state, and federal public agencies other than the Lead Agency which have discretionary approval power over the project.
- 2.13 Trustee Agency. Trustee Agency means a state agency having jurisdiction by law over natural resources affected by a project which are held in trust for the people of the State of California.

3.0 Policy

CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.

In regulating public or private activities, the City is required to give major consideration to preventing environmental damage.

The city recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors. The city should not approve a project as proposed if there are feasible alternatives or mitigating measures available that would substantially lessen any significant effects that the project would have on

the environment, or if the project has unmitigatable detrimental environmental effects without overriding considerations.

The city encourages the preparation of environmental documents early in the planning process to promote environmentally sound design and to allow early recognition of environmental constraints and opportunities. The city specifically encourages project applicants to consult with staff prior to formal submission of plans. To the extent feasible, environmental review procedures shall be integrated with other project approval procedures to avoid excessive delays.

4.0 Application of CEQA to Local Projects.

The requirements set forth in these procedures apply to projects which may have a significant effect on the environment and which involve discretionary action by the city except as set forth below.

- 4.1 Categorical Exemptions. The categorical exemptions set forth in the State Guidelines, Article 19, Sections 15300-15329, are incorporated herein by this reference.
- 4.2 Emergency Projects. Emergency projects are exempt from the requirements of CEQA by the State Guidelines, Section 15269, and this procedure.
- 4.3 Exception Due to Cumulative Effect. All classes of categorical exemption are inapplicable when the cumulative effect of successive projects of the same type, in the same place, over time will be significant.
- 4.4 Exception Due to Location. A project shall not be considered categorically exempt in the event that the project affects an environmental resource or hazard of critical concern which is so designated, precisely mapped, and officially adopted pursuant to law by local, state, or federal agencies.
- 4.5 Exception Due to Unusual Circumstances. Pursuant to the State Guidelines, Section 15300.2, a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances or may impact on an environmental resource of hazardous or critical concern or may have significant cumulative effect.
- 4.6 Ministerial Exemptions. The ministerial exemptions set forth in the State Guidelines, Section 15268, are hereby adopted and incorporated herein by this reference.
- 4.7 Previously Prepared Document. Where an EIR has been previously prepared for a project, no additional EIR need be prepared so long as it complies with Section 15153 of the State Guidelines and the decision-making body: a) considers the information contained in the EIR and any comments; b) decides that the EIR is adequate for the project at hand; c) makes or requires certification to be made as described in the State Guidelines, Section 15090; and d) makes findings as required by the State Guidelines, Sections 15091 and 15093, as necessary.

The city may choose to prepare a supplement or an addendum to an EIR rather than a subsequent EIR pursuant to State Guidelines Sections 15163 and 15164.

5.0 Community Development Department's Role in Environmental Review

- 5.1 Responsibility for Environmental Review. The community development department shall have the principal responsibility for implementation of CEQA, the State Guidelines, and the intent of these procedures. The director shall comply with the Environmental Impact Review Procedures approved by resolution of the city council and shall be responsible for the adequacy and objectivity of environmental documents.
- 5.2 Projects Initiated by the City or Private Projects for Which the City Is Lead Agency. When the city plans to initiate or approve a project which may have a significant effect on the environment, the city shall prepare environmental documents or shall have such documents prepared unless the project is exempted by these guidelines.
- 5.3 Private Projects. The director is hereby given the responsibility for the preparation and coordination of all procedures and requirements mandated by CEQA, the State Guidelines and these procedures. Further, the director shall have the authority to require an applicant to provide any information deemed necessary to enable a complete environmental evaluation to be made of the project. An Initial Study, Negative Declaration or EIR may be prepared directly by the city or, at the option of the city, by consultants under contract to the city.
- 5.4 Redevelopment Projects. Projects sponsored by the redevelopment agency shall be processed under the regulations of that agency, provided that the redevelopment agency is the Lead Agency. The planning commission shall be the reviewing or advisory body for agency projects. The agency shall be the certifying body and shall assume the same role and responsibilities as the city council does concerning projects outside the redevelopment area.
- 5.5 Annexation. Where the city has rezoned an area, the city shall be the appropriate Lead Agency for any subsequent annexation of the area. Where the city is processing a rezoning application, required environmental documents shall be prepared by the community development department at the time of the rezoning and shall address both the rezoning and the annexation. The city shall consult with the Local Agency Formation Commission, and environmental documents shall contain the comments of that commission or of its staff and other jurisdictions, as applicable.

6.0 Environmental Impact Evaluation Procedure.

- 6.1 General. No public or private project shall be approved or granted until the requirements of CEQA have been satisfied in accordance with the procedures set forth herein.
- 6.2 Project Descriptions. All public and private applications that request a city permit or entitlement must be accompanied by an Environmental Information form (Appendix A) and contain a description of the project in sufficient detail to satisfy requirements for the preparation of an Initial Study.

- 6.3 Review of Application for Completeness. The director shall determine whether an application for a permit or other use entitlement or a resubmittal is complete and notify the applicant within 30 days from receipt of the application. Any part deemed incomplete and the manner in which they may be made complete will be identified in writing. If no written determination of application completeness is made within that period, the application shall be deemed complete on the 30th day.
- 6.4 Appeal Procedure for Application Completeness Determination. Applicants may appeal a decision that an application is incomplete by filing a letter with the director within 10 days after the decision. The appeal shall be scheduled on the next available planning commission agenda and the planning commission decision shall be final.
- 6.5 Initial Study. The director shall determine within 30 days of application acceptance whether it is necessary to prepare a Negative Declaration or EIR or use a previously prepared Negative Declaration or EIR, except as provided in the State Guidelines, Section 15111 for projects with shorter time periods for approval and for subdivision maps. The 30-day period may be extended 15 days upon the consent of the director and the applicant.

The Initial Study shall be done in accordance with the State Guidelines, Section 15063. A fee shall be charged for preparation of an Initial Study as indicated in the latest adopted city fee schedule. It may be prepared at the applicant's expense by a consultant chosen by the director from a list of qualified consultants.

If the city can determine that a project will clearly have a significant environmental effect, an Initial Study need not be prepared, and the city may commence with preparation of an EIR.

- 6.6 Determination Regarding Significant Environmental Effect. Based on the Initial Study, the director shall:
- a. Determine whether or not the activity is ministerial, pursuant to the State Guidelines, Section 15268;
 - b. Determine whether or not the activity is categorically exempt, pursuant to the State Guidelines, Article 19, Section 15300 et seq;
 - c. Determine whether or not the project is an emergency project;
 - d. Determine those instances whether the project will or will not have a significant effect on the environment, pursuant to the State Guidelines, Section 15064; and
 - e. Determine those instances where an existing EIR or Negative Declaration is adequate to cover the project and no additional environmental documentation would be required, pursuant to the State Guidelines, Sections 15153, 15162, 15163, and 15164.
- 6.7 Consultation with Other Governmental Agencies. If other public agencies have approval authority over or may be affected by a project, such agencies shall be consulted and comments

from them shall be received prior to a determination being made on the project's environmental impact effect.

6.8 Results of Determination Regarding Significant Environmental Effect.

The director shall submit the Initial Study to the decision-making body and the decision-making body shall decide at a public hearing whether to issue a Negative Declaration or require an EIR for the project.

A determination by the planning commission that there could be a significant environmental effect shall require preparation of an EIR even though the planning commission may only be advisory to the city council and redevelopment agency on environmental matters.

6.9 Appeal of Determination Regarding Significant Environmental Effect. Any determination resulting from an Initial Study may be appealed in accordance with Section 7.04.170 of the municipal code.

7.0 Issuance of Negative Declaration.

7.1 General. Negative Declarations shall be prepared and processed in accordance with the State Guidelines Sections 15070 and 15071.

7.2 Fees. The city shall charge a fee for the preparation and filing of the Negative Declaration as indicated in the latest adopted city fee schedule and by the Fish and Game Code, Section 711.4.

7.3 Processing. A Notice of Intent to Issue a Negative Declaration shall be published in a local newspaper, posted in the community development department, and filed with the county clerk, at least 21 days but not more than 30 days before consideration by the decision-making body, pursuant to the State Guidelines, Section 15072.

A copy of the notice with the proposed Negative Declaration shall be sent to the Planning Commission, every Responsible Agency, Trustee Agency, and all agencies with jurisdiction by law over resources affected by the project, in accordance with the State Guidelines, Section 15073.

If a state agency is recognized as a Responsible Agency or otherwise has jurisdiction by law with respect to a project, copies of the notice and proposed Negative Declaration shall be submitted to the State Office of Planning and Research (OPR) for review by state agencies. The review period shall be 30 days unless a shorter period is established by OPR.

Upon termination of the public review period or upon notification by OPR that the state review process is complete, the proposed Negative Declaration and all public comments shall be forwarded by the director to the decision-making body for consideration.

7.4 Completion of Negative Declaration. The Negative Declaration must be completed and ready for approval within 105 days from the date the Lead Agency accepted the application as complete.

The Negative Declaration may be approved at a later time when the permit or other entitlement is approved.

- 7.5 Adoption of Negative Declaration. Negative Declarations shall be approved and adopted by the decision-making body prior to any action to approve the project or the entitlement for which the document was prepared. When the planning commission is required to make a recommendation on a project to the city council, the planning commission shall also make a recommendation as to adoption of the Negative Declaration.
- 7.6 Filing a Notice of Determination. After approval to carry out a project becomes final, the Notice of Determination shall be filed with the county clerk within 5 working days subsequent to approval of a project for which a Negative Declaration was adopted, together with the fees and form required by State Fish and Game Code Section 711.4. If the project requires discretionary approval from any state agency the Notice of Determination shall also be filed with OPR within the same time period. When the notice is returned to the city, it shall be retained permanently in the project file.
- 7.7 Appeal Procedure for Negative Declarations. Any person may appeal the adoption of a Negative Declaration, pursuant to Section 7.04.170 of the municipal code.

8.0 Environmental Impact Report

- 8.1 General. When required, an EIR shall be prepared and processed in accordance with the State CEQA Guidelines, Article 7.
- 8.2 Request for Scoping. If the applicant wishes input regarding the scope of the EIR, a public hearing may be requested before the planning commission.
- 8.3 Preparation of an EIR.
- a. Responsibility. The city is responsible for the adequacy and objectivity of an EIR. The city shall require the person(s) initiating the project to supply whatever information may be necessary for the preparation of the draft EIR. The draft EIR shall be prepared only by city staff or consultants under contract with the city.
 - b. Costs. All costs of EIR preparation, including consultant fees and city expenses shall be paid by the project applicant who shall so agree, in writing, and deposit the necessary fees into a city trust fund prior to execution of a contract between the city and the EIR consultant.
- 8.4 Notice of Preparation. Upon deciding that an EIR is required for a project, the director shall send a Notice of Preparation to each Responsible Agency and Trustee Agency involved in approving or funding the project by certified mail stating that an EIR must be prepared. The Notice of Preparation shall be prepared as described in the State Guidelines, Section 15082. In addition,

the city may consult with any other persons or groups it believes may have a particular specific interest in the environmental effects of the project.

- 8.5 Response to Notice of Preparation. Agencies to which the Notice of Preparation was sent shall provide a response to the city within 30 days after receipt of the notice. If an agency fails to reply within the 30 days and has not been granted an extension of time, the city may assume that the agency receiving the Notice of Preparation has no response to make and may disregard a late response.
- 8.6 Convening of Meetings. The director shall convene a meeting with Responsible Agency representatives to discuss the scope and content of the environmental information the Responsible Agency will need in the EIR within 30 days after receiving a request for the meeting. The meeting may be requested by the city, a Responsible Agency, a Trustee Agency, or by the project applicant.
- 8.7 Contents of Environmental Impact Reports. An EIR shall contain the information outlined in the State Guidelines, Article 9.
- 8.8 Notice of Completion. Upon completion of a draft EIR, the director shall determine the adequacy of the draft EIR for public review. If a draft EIR is found to be inadequate, the director shall specify the nature of the deficiencies in the document and return it to the preparer for the needed revisions.

If the draft EIR is found to be adequate, the director shall file a Notice of Completion with OPR, in accordance with the State Guidelines, Section 15085(c), and make a copy of the notice available in the community development department in addition to the office of the county clerk.

- 8.9 Consultation. After the draft EIR is completed and approved for distribution, the director shall consult with and obtain comments from all Responsible Agencies, Trustee Agencies and any public agency having jurisdiction by law with respect to the project, and may consult with persons or organizations having special expertise with respect to any environmental effect of the project. When required by the State Guidelines, the director shall forward the appropriate environmental documents to OPR for review.
- 8.10 Review by General Public. Upon completion of a draft EIR, public notice of draft EIR completion shall be given in accordance with the State Guidelines, Section 15085, and the city shall provide an opportunity for members of the general public to comment upon the draft EIR, in accordance with the State Guidelines, Section 15087. The director shall take into consideration the magnitude of the project, the level of public interest, the complexity of the environmental issues, and other relevant factors in providing for public review of the draft EIR.

Copies of the draft EIR shall be made available at the central public library and on a loan basis from the community development department.

- 8.11 Time for Review and Comment. The time allowed for review and comment for draft EIR's shall not be less than 30 days from the date of Notice of Completion, nor longer than 90 days from

such date, except in unusual situations. The review period for draft EIR's for which a state agency is the Lead Agency, or the Responsible Agency, shall be at least 45 days, unless a shorter period is approved by OPR.

- 8.12 Processing of Comments. Comments on the draft EIR shall be received during the period specified; failure of persons to comment within that time shall lead to the conclusion that there are no comments. Comments on the draft EIR received during the time specified shall be reviewed by the city and responded to as deemed appropriate and in conformance with the State Guidelines, Section 15088. Pertinent comments and responses shall be included in a Response to Comments document, which shall become part of the final EIR. Comments and responses shall be kept on file and shall be available for public inspection at the community development department.

9.0 Public Hearing on Draft EIR.

- 9.1 Authority. A public hearing or hearings shall be held on the draft EIR by the decision-making body and any body advisory to the decision-making body.
- 9.2 Public Notice. Public notice of such hearings on draft EIR's shall be made in the same manner as required for normal hearings on the project.
- 9.3 Procedure. A hearing on the draft EIR shall be held no sooner than 15 days following the Notice of Completion. Comments received at public hearings should also be submitted in a typed or legibly written form so as to insure their accurate transmittal to the person preparing the final EIR. After public input has been obtained, the public hearing shall be closed and the draft EIR revised and/or the final EIR prepared.

10.0 Public Hearing on Draft EIR.

- 10.1 Completion and Certification of EIR. With a private project, the city shall complete and certify the final EIR as provided in the State Guidelines, Section 15090, within 1 year after the date the application was accepted as complete. The 1 year time limit may be extended once for a period of not more than 90 days upon consent of the city and the applicant.
- 10.2 Suspension of Time Periods. Pursuant to the State Guidelines, Section 15109, an unreasonable delay by an applicant in meeting the requests of the director necessary for EIR preparation shall suspend running of the time periods described in the State Guidelines, Sections 15107 and 15108, for the period of the unreasonable delay. Alternately, the city may disapprove a project application where there is unreasonable delay in meeting requests. The city may allow a renewed application to start at the same point in the process where the application was when it was disapproved.
- 10.3 Certifying Body. In those cases where the planning commission is the decision-making body for the project, said commission shall be the certifying body for the final EIR.

If the planning commission is not satisfied that the final EIR is adequate, the planning commission shall return it to the director for revision and resubmittal.

In those cases where the city council is the decision-making body, it shall be the certifying body for the final EIR. Prior to such certification, the planning commission shall review a final EIR pursuant to the State Guidelines, Section 15132, and adopt a resolution recommending to the city council final EIR certification.

The city council shall hold another public hearing on the certification of the final EIR to consider additional information not included in the final EIR.

If the city council is not satisfied that the final EIR is adequate as recommended by the planning commission, the city council shall return it to the director for revision and resubmittal.

- 10.4 Final EIR Certification. The decision-making body shall certify the final EIR, pursuant to the State Guidelines, Section 15090, by adopting a resolution with the findings that the final EIR was completed in compliance with CEQA; that the final EIR was presented to the decision-making body; and that the information contained in the final EIR was reviewed and considered by the decision-making body prior to project approval.

If the city council is not satisfied that the final EIR is adequate as recommended by the planning commission, the city council shall return it to the director for revision and resubmittal.

- 10.5 Relationship to Other Actions. Hearing and/or action on a final EIR may be held in conjunction with formal hearings on the project being considered. No action to approve or carry out a project shall be taken until the final EIR has been certified and adopted.

11.0 Project Approval.

- 11.1 General. The decision-making body shall not approve or carry out a project for which an EIR has been completed which identifies one or more significant environmental effects from the project unless the decision-making body makes one or more written findings for each significant effect prior to the approval, supported by substantial evidence in the record and accompanied by a brief explanation linking each finding with the facts in the record, pursuant to State Guidelines, Sections 15091, 15092, and 15093.

- 11.2 Procedure. When an EIR shows that approval of a project would cause substantial adverse changes in the environment, the decision-making body shall by action and resolution respond to the information by at least one of the following methods:

- a. Changing the proposed project;
- b. Imposing conditions and mitigating measures on the approval of the project;
- c. Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes;

- d. Choosing an alternative way of meeting the same need;
- e. Disapproving the project;
- f. Finding that changing or altering the project is not feasible; or
- g. Balancing the benefits of a proposed project against its unavoidable environmental risks and finding that the unavoidable significant environmental damage is acceptable, as provided in State Guidelines, Section 15093, prior to making a statement of overriding considerations for inclusion in the approval resolution.

11.3 Notice of Determination. After approval to carry out the project becomes final, a Notice of Determination shall be filed with the county clerk within 5 working days, including the fee required by the State Fish and Game Code, Section 711.4. If the project requires discretionary approval from any state agency, a Notice of Determination shall also be filed with OPR. When the notice is returned to the city it shall be retained permanently in the project file.

11.4 Filing and Availability of EIRs. A copy of the certified final EIR shall be part of the permanent record of the application and shall be available for public inspection.

11.5 Projects with Federal Involvement. Where a project is subject to NEPA as well as CEQA, the time limits shall be as set out in the State Guidelines, Section 15110.

11.6 Appeal of EIR Certification. Any person may appeal the certification of an EIR pursuant to Section 7.04.170 of the municipal code.

12.0 Mitigation Measure Monitoring.

12.1 General. In order to comply with Section 21081.6 of the Public Resources Code all mitigation measures contained in each Negative Declaration and final EIR shall be monitored to ensure implementation.

12.2 Development of Checklist. At the time of preparation of a Negative Declaration or final EIR, a project checklist shall be compiled by the director. For each effect identified, the mitigation measure(s) shall be described, the monitoring agency and implementing party identified, and the monitoring action and the timing of the monitoring described.

12.3 Distribution of Checklist. The checklist shall be finalized by the director after adoption of the Negative Declaration or certification of the final EIR. It shall be distributed within 5 working days to the public works department and any other agencies having responsibility for overseeing mitigation measure implementation.

12.4 Status Reports. The status of mitigation measures for each Negative Declaration and EIR shall be reported annually to the planning commission at its second public hearing in January until the mitigation measures have been implemented. The commission shall be notified when all

mitigation measures have been complied with for a given project. Where appropriate and feasible, the report shall also provide a projected timetable for implementation of each mitigation measure.

13.0 Environmental Documents Originating from Other Agencies.

- 13.1 Review. Environmental documents sent to the city for review shall be forwarded to the community development department for distribution to specific city departments as applicable.
- 13.2 Comments. The community development department or other designated department shall receive comments from other city departments and shall forward those comments, together with its own, to the Lead Agency which has requested review and comment.
- 13.3 Public Hearings. A public hearing may but need not be held on such documents. The city shall have the discretion to hold a public hearing and/or refer the documents to the planning commission or city council for their review and comments prior to forwarding the city's comments to the Lead Agency, as provided above.
- 13.4 Responsible Agency. Where the city acts as a Responsible Agency, it shall review and consider the Lead Agency's Negative Declaration or EIR prior to acting upon or approving the project. The city shall certify that it has reviewed and considered the information contained in the Negative Declaration or EIR for the project and file a Notice of Determination, as stipulated in Section 15096(i) of the State Guidelines.

Responsible Agencies and Trustee Agencies shall provide a response to a Notice of Preparation to the Lead Agency within 30 days after receipt of the notice. The reply shall specify the scope and content of the environmental information which would be germane to the city's statutory responsibilities in connection with the proposed project.